

**REMARKS**

Claims 1-12 are pending in the application upon entry of this amendment. Independent claims 1 and 5 have been amended to clarify the structures that provide for inclination of the anchor bolt relative to an undercut portion of a drilled hole in which the fixing device is set. New claim 12 recites a fixing device that similarly contains structures that permit inclination of an anchor bolt within a fixedly secured covering. Support for the amendments to claims 1 and 5 and new claim 12 may be found in the specification at least at page 2, lines 18-21, page 3, lines 9-10, and the Figure. In addition, claims 5-9 have been amended to clarify that these claims recite a "fixing arrangement" comprising a panel and a fixing device, rather than merely a fixing device. New claims 10 and 11 have been added to recite additional features of the fixing arrangement.

Favorable reconsideration of the application, as amended, is respectfully requested.

***I. OBJECTION TO THE DRAWINGS***

The Examiner objects to the drawings as not showing every feature specified in the claims. Specifically, the Examiner states that the claimed ten degree inclination of the anchor bolt is not shown in the drawings. In accordance with the Examiner's comments, a replacement drawing sheet is submitted herewith containing an amended Figure. The specification also has been amended so as to make reference to the amended portion of the Figure.

The amended Figure depicts an approximate ten-degree inclination of the anchor bolt in the form of a broken line representing a displacement of the anchor bolt. Because the Figure as amended is commensurate with the description of the inclination of the anchor bolt in the specification (see, e.g., Application at page 1, lines 33-35 and page 3, lines 9-10), Applicants submit that no new matter has been added. Accordingly, the objection to the drawings should be withdrawn.

**II. REJECTION OF CLAIMS UNDER 35 USC §§ 102(b) and 103(a)**

Claims 1-4 stand rejected under 35 USC §102(b) based on *Froehlich et al.*, U.S. Patent No. 4,983,083. Claims 5-9 stand rejected pursuant to 35 U.S.C. § 103(a) as being obvious over *Froehlich et al.* in view of *Kellison*, U.S. Patent No. 4,642,964. Applicants respectfully traverse these rejections for at least the following reasons.

The claimed invention is directed to a fixing device for producing an anchoring in an undercut portion of a panel, which addresses problems resulting from the very limited flexibility of the anchor bolt with respect to the undercut portion. The fixing device of the claimed invention addresses such problem by means of an anchor bolt surrounded in the region of the anchoring zone with a covering of resilient plastics material. This provides a fixing element in an undercut portion of a panel that exhibits resilience in all directions, and the resilience enables inclination of the anchor bolt of about 10 degrees. (See, e.g., Spec., page 1, line 21 to page 2, line 5, page 3, lines 9-10 and the Figure). These features (or comparable) are recited in amended independent claims 1 and 5, and new independent claim 12.

The Examiner states that *Froehlich et al.* discloses the claimed invention for two reasons. First, the Examiner states that the limitation of the anchor bolt being able to incline by ten degrees is an intended use, and with adequate force the anchoring bolt of *Froehlich et al.* could also be inclined by ten degrees. Second, there is no reference for the inclination of ten degrees, so, for example, the device of *Froehlich et al.* meets this limitation by inclining the entire structure of *Froehlich et al.* (See Office Action at page 3.) Along these lines, the Examiner suggests that the Applicants consider amending the claims to recite the specific structures that facilitate the function of the inclination. (See Response to Remarks, Office Action at page 4.)

Applicants have amended independent claims 1 and 5 to recite structural features that facilitate the claimed inclination. In particular, the claim 1 has been amended to recite in part:

a covering of a resilient plastics material that covers the anchoring zone and has a thickness and resiliency such that when[,] the anchor bolt fixing device is anchored within the undercut portion, by a curable composition,

~~and the covering permits inclination of the anchor bolt of resilient plastics material provides increased flexibility of movement of the anchor bolt within relative to the undercut portion of about ten degrees in response to transverse forces.~~

A comparable amendment has been made to claim 5. In addition, new independent claim 12 recites a fixing device that similarly contains a covering of a resilient plastics material that covers the anchoring zone and has a thickness and resiliency such that when the perimeter of the covering is fixedly secured, an inclination of the anchor bolt is enabled of about ten degrees relative to a longitudinal axis of the anchor bolt. These amendments are supported in the application at least at page 2, lines 18-21, page 3, lines 9-10, and the Figure.

Applicants submit that the independent claims have been amended to recite the invention in structural, not functional, terms as advised by the Examiner in the Response to Remarks. The features of the thickness and resiliency of the covering, and the permissible ten-degree inclination of the anchor bolt, structurally define the construction of the fixing device. It will be appreciated that an amount of permissible inclination of the anchor bolt is determined by basically the following features: (1) the thickness and resiliency of the covering, which determine an amount of permissible compression of the covering, and (2) the length of the anchoring zone of the anchor bolt. Anchor bolts, of course, may be of different sizes. However, by fixing the permissible angle of inclination to about ten degrees, a given covering thickness and resiliency will correspond to a given length of the anchoring zone, and vice versa. Accordingly, the claim limitations of the thickness and resiliency of the covering, and the inclination angle of the anchor bolt, structurally define the fixing device.

The Examiner states that with adequate force, the anchoring bolt of *Froehlich et al.* could also be inclined by ten degrees. Applicants respectfully disagree. The purported "covering" of *Froehlich et al.* is merely a coating that prevents adhesion of the bolt at its boundary with the hardened material. As described and depicted in *Froehlich et al.*, the coating has no appreciable thickness. Having little thickness, the coating would not permit any appreciable inclination of the bolt. In addition, the Examiner has not directly responded to Applicants' arguments, from the previous Office Action, that

the types of materials identified in *Froehlich et al.* (e.g., polysiloxin) simply are not resilient or flexible. If, therefore, one were to apply a force to incline the bolt of *Froehlich et al.* by ten degrees as suggested by the Examiner, the result likely would be to break the bolt and/or crack the concrete.

The Examiner also states that since there is no reference for the inclination of ten degrees, the device of *Froehlich et al.* meets this limitation, for example, by inclining the entire structure of *Froehlich et al.* Applicants submit that insofar as the claimed invention is a fixing device or fixing arrangement for anchoring panels, one skilled in the art would understand that the claimed inclination is relative to the undercut portion of the panel, or relative to the longitudinal axis of the anchor bolt. In accordance with the Examiner's comments, however, Applicants have clarified in the claims that the inclination is "relative to" the undercut portion (claims 1 and 5), or to a longitudinal axis of the anchor bolt (claim 12).

Regarding claims 5-11, the Examiner applies *Froehlich et al.* against claim 5 in the same manner as against claim 1. The Examiner recognizes that *Froehlich et al.* does not disclose a panel having an undercut hole, but states that *Kellison* discloses employing an undercut hole in a concrete anchoring system. *Kellison* does not supply of the deficiencies of *Froehlich et al.*, and the Examiner does not indicate otherwise. Accordingly, for the reasons stated above, a combination of *Froehlich et al.* and *Kellison* does not result in or disclose the claimed invention of claims 5-11.

In addition, new claim 11 has been added to recite that that the panel is a glass panel. New claim 11 is supported throughout the specification. The specification states: "The invention relates to a fixing device for producing an anchoring in panels, especially panels consisting of glass." (Application at page 1, lines 9-10; see also page 1, lines 27-28; page 2, lines 31-32; Abstract.) *Froehlich et al.* and *Kellison* do not disclose or suggest that their concrete anchoring systems would be suitable for use with glass panels.

For at least these reasons, claims 1-4 and 12 are not anticipated by *Froehlich et al.*, and claims 5-11 are not obvious over *Froehlich et al.* in view of *Kellison*. The rejection of the claims, therefore, should be withdrawn.

**III. CONCLUSION**

Accordingly, claims 1-12 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner consider that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

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